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ROMI MAYDER, SILICON TEST SYSTEMS, INC.,
SILICON TEST SOLUTIONS, LLC and WESLEY
MAYDER

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

VERIGY US, INC., a Delaware Corporation,

Plaintiff,

v.

ROMI MAYDER, an individual; WESLEY
MAYDER, an individual; SILICON TEST
SYSTEMS, INC., a California Corporation;
and SILICON TEST SOLUTIONS, LLC, a
California Limited Liability Corporation,
inclusive,

Defendants.

AND RELATED CROSSCLAIMS.

Case No. 5:07-cv-04330-RMW (HRL)

**DECLARATION OF DR. RICHARD
BLANCHARD IN SUPPORT OF MOTION
FOR SUMMARY ADJUDICATION AND
MOTION TO MODIFY PRELIMINARY
INJUNCTION ORDER**

Judge: Hon. Ronald M. Whyte
Date: August 15, 2008
Time: 9:00 a.m.
Dept.: 6

Complaint Filed: August 22, 2007
Trial Date: December 8, 2008 (jury trial)
(Defendants have elected to reserve their jury
trial rights under F.R.C.P., Rule 38)

1 I, Dr. Richard A. Blanchard, hereby declare under penalty of perjury:

2 1. My name is Dr. Richard A. Blanchard. The statements set forth herein are true of
3 my personal knowledge, except for those matters set forth on the basis of information and belief,
4 which matters I believe to be true. I could and would competently and truthfully testify to the
5 following if called upon to do so.

6 2. I received both a BSEE and MSEE in 1968 and 1970, respectively, from the
7 Massachusetts Institute of Technology in Cambridge, Massachusetts. In 1982, I received a
8 doctorate degree in Electrical Engineering from Stanford University, in Palo Alto, California. I
9 have been working in and around the semiconductor industry for nearly 40 years. I have extensive
10 experience in specification design, layout and evaluation of integrated circuits. A copy of my
11 curriculum vitae is attached as Exhibit A.

12 3. Previously, I was retained by Mount & Stoelker, P.C., predecessor counsel for
13 defendants, as an expert witness in this matter, and submitted two declarations, dated October 11,
14 2007 and November 29, 2007, respectively. I signed the Stipulated Protective Order, as Amended
15 by the Court, on September 3, 2007.

16 4. On July 2, 2008, I received – for the first time – from defendants’ successor
17 counsel, Russo & Hale LLP, unredacted and complete copies, with all exhibits, of the Temporary
18 Restraining Order (“TRO”) as well as a copy of the Preliminary Injunction Order (“Preliminary
19 Injunction”) entered in this action against defendants. On July 7, 2008, I received – also for the
20 first time – from Russo & Hale LLP a copy of Plaintiff’s Amended C.C.P. Section 2019.210
21 Disclosure dated April 18, 2008 (“Amended Section 2019.210 Disclosure”).

22 5. I had not previously read or reviewed these Court Orders or the Amended Section
23 2019.210 Disclosure, nor had I ever received copies of these Court Orders or the Amended Section
24 2019.210 Disclosure, because they had not been sent to me by Mount & Stoelker. I had previously
25 received from Mount & Stoelker a redacted copy of plaintiff Verigy US, Inc.’s (“Verigy”) original
26 Section 2019.210 trade secret disclosure dated August 24, 2007, and the information in my expert
27 reports was based on this redacted information, the information contained in the Declaration of Ira
28 Leventhal dated August 21, 2007, Mr. Leventhal’s deposition transcript, the Declaration of Robert

1 Pochowski dated August 16, 2007, and the other information identified in my expert reports and
2 my deposition. I was not asked by Mount & Stoelker, or any attorney at Mount & Stoelker, to
3 review the Court Orders described above, nor to give any input on their scope, nor to advise Romi
4 Mayder, Silicon Test Systems, Inc. ("STS"), or any other defendant concerning what they could
5 and could not do technically based on the TRO or based on the Preliminary Injunction. Given that
6 I had never received a copy of the complete TRO prior to July 2, 2008, it is unlikely that even had I
7 been asked to do so that I would have been in a position to give technical advice about the scope of
8 the purported trade secrets that were or were not covered, nor the technical activities that were or
9 were not enjoined. My recollection is that no one from Mount & Stoelker ever even asked me for
10 any such advice or recommendations.

11 6. Having now received and read the Court Orders described above, I can say
12 affirmatively that had someone given me all of the exhibits and all of the other material, to the
13 extent possible, referenced in or comprising the Court's TRO, my advice to defendants would have
14 been to send their attorneys at that time, Mount & Stoelker, back to the Court for clarification on
15 the meaning of a number of these alleged trade secrets and referenced materials. Even having
16 reviewed a complete and unredacted copy of the TRO, there are serious questions as to information
17 that is claimed as purported trade secrets by Verigy, which questions are raised by the considerable
18 amounts of information that is published or otherwise publicly available concerning Verigy's
19 purported trade secrets.

20 7. For further verification of the fact that Mount & Stoelker never contacted me after
21 November 2007, I have attached all of my time card records for this matter through the end of
22 June, 2008 as Exhibit X hereto; these records are true and correct business records maintained by
23 my firm in the ordinary course of business, and they reflect the fact that my engagement (through
24 Mount & Stoelker) effectively ended in November, 2007; I was not re-engaged until recently
25 (through Russo & Hale LLP).

26 8. Since I was contacted by defendants' new counsel, Russo & Hale, I have recently
27 been able to obtain a series of additional published patent applications and other publications
28 (copies of which are attached as Exhibits B through U). Based on my review of Exhibits B

1 through U, these documents and other publicly available information demonstrate that:

- 2 a. the overall concept for probe card circuit multiplexing technology (i.e.,
3 technology for multiplexing circuits where such circuitry is mounted on a
4 probe card) is publicly available or well known in the semiconductor test
5 industry and is also readily ascertainable;
- 6 b. Exhibits A-F that were attached to the Declaration of Robert Pochowski
7 dated August 16, 2007 (and which I understand Verigy claims was
8 wrongfully misappropriated) are all based upon information that is publicly
9 available or well known in the semiconductor test industry and that is also
10 readily ascertainable;
- 11 c. each of what I understand to be the several key functionalities that the Court
12 indicated Verigy's expert had opined were missing from patent materials
13 ("Verigy's expert, Wei Wei, opines that several features of the [words
14 omitted as 'Confidential'] are missing from the patent materials. Wei Decl.
15 ¶¶ 88-97," Preliminary Injunction at 11:16-17), as discussed in a
16 confidential portion of the Preliminary Injunction (Preliminary Injunction at
17 11:18-12:3) is either (i) publicly available or well known in the
18 semiconductor test industry, (ii) readily ascertainable, or (iii) the type of
19 information that I would expect would be specified by the requirements of a
20 particular customer of the semiconductor test industry; as for the
21 functionalities identified by the Court in the Preliminary Injunction at 11:20-
22 21 and 12:2-3, it is my opinion that both of them are (A) publicly available
23 or well known in the semiconductor test industry and (B) readily
24 ascertainable; as for the functionality identified by the Court in the
25 Preliminary Injunction at 11:21-12:2, it is my opinion that it is the type of
26 information that I would expect would be specified by the requirements of a
27 particular customer of the semiconductor test industry; and
28 d. techniques for using a serial bus with "daisy-chain" support for providing

control signals, which could be used for programming, is and has been well known in the field of electrical engineering and more specifically in the semiconductor test industry for a number of years; for example, P. Horowitz and W. Hill, The Art of Electronics (2d ed. 1989) (excerpts of which are attached as Exhibit V), beginning at the first full paragraph in col. 2 on p. 699, describes general “daisy chain” techniques; more particularly, U.S. Patent No. 6,784,677 (a copy of which is attached as Exhibit W), which was based on a prior application published in 2003 and assigned to FormFactor, Inc., which I understand to be a company in the semiconductor test industry, describes the use of a “daisy-chain bus configuration” in the paragraph beginning at col. 2, l. 22, and makes reference to Fig. 1, which illustrates such a daisy-chain configuration.

9. After having been re-engaged by Russo & Hale, I have now had sufficient opportunity, after doing my own literature search and re-reviewing relevant information from the case, to conclude that even if all of what Verigy claims was kept secret by Verigy, and even if all of Verigy’s alleged trade secrets as set forth in the Amended Section 2019.210 Disclosure were to qualify as trade secrets, my opinion is that it would have taken Romi Mayder (or anyone with similar education and similar experience and qualifications in the semiconductor test industry) a maximum of six person-months, and possible as few as four person-months, beginning on October 1, 2006, to independently research, develop, determine, and otherwise compile all of the information in what I understand to be the product specification that would be submitted to a chip manufacturer for the Flash Enhancer product from public and readily ascertainable sources and customer requirements (from companies such as the potential customer identified in the Preliminary Injunction, Preliminary Injunction 25:4 and 25:7 (the “Specific STS Potential Customer”) without relying upon any of Verigy’s claimed trade secret information. Indeed, in this particular case, I believe that it would have taken Romi Mayder less than this amount of time to independently research, develop, determine, and otherwise compile all of the information in what I understand to be the product specification that would be submitted to a chip manufacturer for the

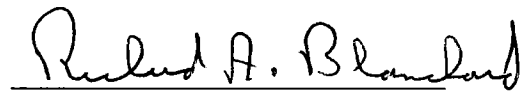
Flash Enhancer product from public and readily ascertainable sources and customer requirements (from companies such as the Specific STS Potential Customer) without relying upon any of Verigy's claimed trade secret information, because, based upon my knowledge and experience, the critical factor for speeding up this process is the extent of the cooperation provided by a potential customer. In the four-to-six month range of time that I have specified above, I have assumed average cooperation from a potential customer in the semiconductor test industry. In this case, I have seen evidence that the Specific STS Potential Customer was particularly motivated to cooperate with Romi Mayder and STS and actually provided greater than average cooperation and support for Romi Mayder and STS. Therefore, I feel that, in working with potential customers such as the Specific STS Potential Customer, Romi Mayder would have needed less than this four-to-six month range of time to independently research, develop, determine, and otherwise compile all of the information in what I understand to be the product specification that would be submitted to a chip manufacturer for the Flash Enhancer product from public and readily ascertainable sources and customer requirements (from companies such as the Specific STS Potential Customer) without relying upon any of Verigy's claimed trade secret information.

10. During the course of my career, I have been involved in projects and cases in which royalty rates for patented technology in the semiconductor industry have figured prominently. In my experience, the customary range for royalty rates for a single patent in the semiconductor industry has been approximately three to five percent (3-5%), sometimes with declining rates, and the customary range for royalty rates for multiple patents in the semiconductor industry has been approximately eight to ten percent (8-10%), even when a number of patents are licensed as part of the same transaction. I have never seen a royalty rate for a single patent in the semiconductor industry that was greater than five percent (5%), and I have never seen a royalty rate for a combination of multiple patents in the semiconductor industry that was greater than ten percent (10%). In my opinion, even if all of the alleged trade secrets that Verigy claims in connection with this case were found to be actual trade secrets and were found to have been infringed by defendants, a fifteen percent (15%) royalty rate would be far in excess of any royalty rate that would be adequate to compensate Verigy for the use of all such trade secrets based upon my

1 experience and my knowledge of standards for royalty rates in the semiconductor industry.

2 11. The foregoing is based on information currently available to me and the work that I
3 have undertaken in this matter to date. If new information becomes available to me, or I conduct
4 additional work in this matter, I expressly reserve the right to expand or modify my opinions as my
5 investigation and study continue.

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct. Executed on July 10, 2008 in MT. View, California.

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10 Dr. Richard A. Blanchard
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